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CORPORATIONS—FOREIGN CORPORATIONS—EFFECT OF WITHDRAWAL FROM STATE—VALIDITY OF SERVICE.—The defendant company, a foreign corporation, had done business in Idaho and had while there, lived up to the statutory requirement of appointing an agent upon whom service could be had. The statute required that the designation of the agent should run until his successor was appointed. The defendant company withdrew from the state and ceased doing business there, and the agent was no longer connected with the company. The plaintiff sues the company in tort for damages to his lands and served the former agent of defendant company. *Held*, that the service was good. *Hill et al. v. Empire State-Idaho Mining & Developing Co., Matheson v. Empire State-Idaho Mining & Developing Co.*, (1907), — C. C. D., Idaho, N. D. —, 156 Fed. Rep. 797.

The general rule is that a foreign corporation must be doing business in the state before it is subject to process. It must be present through its agents, and the agent served must be representing it in its business there. *St. Clair v. Cox*, 106 U. S. 350, 1 Sup. Ct. 354; *Conley v. Mathieson Alkali Works*, 190 U. S. 406, 23 Sup. Ct. 728; *Peterson v. C. R. I. & P. Ry.*, 205 U. S. 364, 27 Sup. Ct. 513. The court in the principal case reasons that a foreign corporation can agree as a condition to entering a state for business purposes, that it will be liable to suit by a specified service as long as there shall exist any liability against it in that state, and this even though it ceases to do business there. It would seem that such an agreement should be express and should clearly contemplate such service so that the constitutional guaranty of "due process of law" will not be violated. The agreement has been held to exist when the statute specifically requires a stipulation to be filed by the foreign corporation that the agent's authority to receive service will not be revocable while any liability against the corporation remains outstanding throughout the state. These statutes apply to insurance companies most generally and service is authorized on the insurance commissioner. *Collier v. Mut. Res. Life Ass'n*, 119 Fed. 617; *Home Benefit Society v. Muehl*, 109 Ky. 479, 59 S. W. 520; *Magoffin v. Mut. Res., etc., Ass'n*, 87 Minn. 260, 91 N. W. 1115, 94 Am. St. Rep. 699; *Ben Franklin Ins. Co. v. Gillett*, 54 Md. 212; *Woodward v. Mut. Res., etc., Ass'n*, 178 N. Y. 485, 71 N. E. 10, 102 Am. St. Rep. 519; *Biggs v. Mut. Res., etc., Ass'n*, 128 N. C. 5, 37 S. E. 955; *Green v. Life Ass'n*, 105 Iowa 628. The effect of the above cases is modified when we see that the United States Supreme Court has decided that an insurance company is doing business in a state even when it has ceased taking new policies and is merely collecting premiums. *Ins. Co. v. Spratley*, 172 U. S. 603; *Mut. Res., etc., Ass'n v. Phelps*, 190 U. S. 147. The defendant corporation in the principal case did not certainly expressly agree that service on its agent should be good after it had withdrawn from the state. The court interpreted the statute to mean that the authority of the agent should continue and consequently implied the agreement of the foreign corporation to such an arrangement. This resulted in a person receiving service for the defendant who had no connection with the corporation at the time. The principal case is supported by *Groel v. United Electric Co.*, 60 Atl. 822, 69 N. J. Eq. 397; *Germania Ins. Co. v. Ashby*, 65 S. W. 611, 112

Ky. 303, 99 Am. St. Rep. 295; *Davis v. K. & T. Coal Co.*, 129 Fed. 149. Opposed to it are *De Castro v. Compagnie Francaise*, 76 Fed. 425; *Swann v. Mut. Res., etc., Ass'n*, 100 Fed. 922; *Friedman v. Empire Life Ins. Co.*, 101 Fed. 535; *Forrest v. Bridge Co.*, 116 Fed. 357, 53 C. C. A. 577; *Cady v. Associated Colonies*, 119 Fed. 420; *Eureka M. Co. v. Calif. Ins. Co.*, 130 Cal. 153, 62 Pac. 393. For general reference to this subject, see note to *Abbeville Elec., etc., Co., v. Western Elec. Supply Co.*, 85 Am. St. Rep. 926; Note to *Reeves v. Southern R. Co.*, 70 L. R. A. 535; Note to *Eldred v. Am. Palace Car Co.*, 45 C. C. A. 3. As to service on foreign corporations, see 5 MICH. LAW REV. 280; 4 ID. 219.

COURTS—JURISDICTION—ACTION UNDER THE LAWS OF ANOTHER STATE.—New Mexico provides by statute (Laws 1903, p. 51, C. 33) that "no civil liability" shall arise from the infliction of personal injury unless the injured party comply with certain conditions expressly declared *precedent to his right of action*, and under no condition shall suit be commenced beyond the confines of the territory. Plaintiff, a citizen of New Mexico, injured in that territory, brought suit in Texas without complying with the conditions; *held*, that interstate comity forbade Texas to entertain the suit. *Southern Pac. Co. v. Dusablon* (1908), — Tex. Civ. App. —, 106 S. W. Rep. 766.

While a court will seldom refuse jurisdiction over a tort committed in a foreign state unless its policy is antagonistic, it is equally decided that the *law of the place of the delict* determines the wrong committed, the substance of the redress, and the permissible defenses. *Boston & Maine Railroad v. Hurd*, 56 L. R. A. 193. If, according to the law of the place of the delict, there is no right of action, there is nothing for the court of the forum to decide. WHARTON, CONFLICT OF LAWS, § 478 a. The statute in question would seem to have abolished the common law action for damages in New Mexico and substituted a complicated statutory action with the terms of which the plaintiff had not complied. He, therefore, by the terms of the statute in the place of the delict had no right of action in New Mexico, and consequently none in Texas. The opinion of the court would seem to indicate this as the reason for their decision. But the court was embarrassed by a prior decision in Texas. (*Atchison T. & S. F. Ry. Co. v. Sowers*, 99 S. W. 190), which had held that in spite of the incisive language of the statute the common law rights to compensation still survived in the territory, at least to such a degree that a citizen of Arizona injured in New Mexico might recover in a Texas court. And that although the statute was constitutional, interstate comity did not require its enforcement. The court in the principal case is therefore driven to the conclusion that the policy of Texas will not recognize a statute of New Mexico when a foreigner seeks to evade it, but will do so when a citizen of the territory is attempting to circumvent it. The comity between states is thus made to depend on the citizenship of him who invokes it, though in both cases a foreigner to the forum is invoking aid for the same wrong committed under the same laws. It would seem that the territorial boundaries of the statute would be the same in either case and that a citizen of another state by traveling in New Mexico consented to be bound by her laws.